IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO. 1504 OF 1986

State Bank of India. .. Plaintiffs.

vs.

Jagdish Gangadhar Nagwekar. .. Defendants.

Ms. J.M. Sidhwa with S. Suryawanshi
i/by Mulla & Mulla CBC
for the plaintiffs.

None for the defendants.

CORAM : S.U.KAMDAR, J.

DATE : 2nd August,2005.

P.C.

. The present suit is filed for recovery of a sum of Rs. 60,809.50 with interest at the rate of 12.5% per annum. Some of the material facts of the present case are as under :-

2. That sometime in or about July 1979 the defendant approached the plaintiff and requested for grant of medium term loan for purchase of tempo. The defendant agreed to furnish security in respect thereof. Accordingly, term loan of Rs. 57,600/-

was granted to the 1st defendant. In view of the said facility granted, the 1st defendant executed an agreement for medium term loan and hypothecation agreement of vehicle dated 6.8.1979. A guarantee dated 6.8.1979 was executed by the 2nd defendant. Under the terms and conditions of the said agreement the medium term loan was recoverable at the minimum of 11% per annum and an undertaking that the said amount will be exclusively used for buying of the said vehicle. The defendant no. 1 accordingly bought a Tempo model FC 360/D2 WD bearing registration No. MMP 998. However, on the due dates of the instalement the 1st defendant was unable to repay the said amount. Accordingly, the plaintiffs addressed a letter to the 1st defendant inter alia seeking he payment of the liability of the 1st defendant together with interest, charges and expenses. The 1st defendant has by a letter dated 8.12.1984 admitted the liability to pay the aforesaid loan amount with interest thereon however did not make any payment. Accordingly the Advocate’s notice was issued by the plaintiff on 14.8.1985 calling upon the defendant to make payment of the aforesaid amount along with interest at the rate of 12% per annum. Inspite of notice sent since no amount was paid, the plaintiff has filed the suit for recovery of the aforesaid amount. The defendant has filed written statement dated 3.3.1987. In the written statement it has been inter alia alleged

that the claim of the plaintiff is barred by limitation. It has been further urged that the said loan was given tot he defendant under the Educational Employment Guarantee Scheme and for purchase of tempo. The defendant signed the documents in blank and they are not aware of the contents thereof. Issues were framed on 11.7.2005.

3. In the present matter the plaintiff has tendered the compilation of documents which is taken on record and marked Exhibit P-1 collectively and affidavit of evidence of one Gopal Krishna Ukidave dated 11.7.2005. From the documents it is clear that the defendants have availed the said loan facility and have signed the necessary documents. The defendant no. 2 has also signed the guarantee dated 6.8.1979. At the foot of the account the aforesaid sum of Rs. 60,809.50 is payable. The plaintiffs have filed certified true copy of the extract of the ledger under the Bankers Book Evidence Act. The matter was on Board on 7.6.2005. It was adjourned to 29.6.2005. Once again it was adjourned to 4.7.2005. Thereafter the matter was on Board on 6.7.2005. It was again adjourned to 11.7.2005. The matter thereafter appeared on Board on 29.7.2005 and was adjourned to 1.8.2005. On all these date none appeared for the defendants. The plaintiffs were asked to inform the advocate for the defendant. Accordingly, by Advocate’s letter dated

11.7.2005 the plaintiffs informed the defendants that the matter is on Board and called upon them to remain present in Court. However, in spite of the notice none appears for the defendants. The evidence of the plaintiff has gone unchallenged. Hence I pass the following order.

> There shall a decree against the defendants and in favour of the plaintiff for the sum of Rs. 60,809.50 paise along with interest at the rate of 12% per annum from the date of the filing of the sit till payment and/or realisation.

4. Suit disposed of accordingly. However, there shall be no order as to costs.